

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CAVE CONSULTING GROUP, INC.,

Plaintiff,

v.

OPTUMINSIGHT, INC.,

Defendant.

Case No. [15-cv-03424-JCS](#)

**ORDER DENYING AS MOOT MOTION
TO DISMISS**

Re: Dkt. No. 34

Defendant OptumInsight, Inc. (“OptumInsight”) moved to dismiss the Complaint filed by Plaintiff Cave Consulting Group, Inc. (“Cave Consulting”). Mot. to Dismiss (dkt. 34). Cave Consulting has since filed an Amended Complaint (dkt. 39).¹ The Court finds OptumInsight’s Motion suitable for disposition without oral argument and **vacates the hearing scheduled for November 6, 2015**. See Civ. L.R. 7-1(b).

“[T]he general rule is that an amended complaint supercedes the original complaint and renders it without legal effect” *Lacey v. Maricopa County*, 693 F.3d 896, 927 (9th Cir. 2012) (en banc). Accordingly, “[d]ismissal of the superseded original complaint would not alter the proceedings . . . as the parties would continue to litigate the merits of the claims contained in the now-operative First Amended Complaint.” See *Liberi v. Defend Our Freedoms Founds., Inc.*, 509 F. App’x 595, 596 (9th Cir. 2013) (dismissing as moot appeal of denial of an anti-SLAPP motion regarding a superseded complaint).


The Court therefore DENIES AS MOOT OptumInsight’s Motion. If OptumInsight wishes

¹ Cave Consulting filed its Amended Complaint seventy-eight days after the original Complaint was served and twenty-seven days after OptumInsight filed its Motion, which is outside the time allowed to amend as a matter of course pursuant to Rule 15(a)(1) of the Federal Rules of Civil Procedure. The Court nevertheless grants Cave Consulting leave to amend under Rule 15(a)(2).

1 to challenge the Amended Complaint, OptumInsight may file a new motion.²

2 **IT IS SO ORDERED.**

3 Dated: October 14, 2015

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5 JOSEPH C. SPERO
Chief Magistrate Judge

United States District Court
Northern District of California

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² The parties have consented to the jurisdiction of the undersigned magistrate judge for all purposes pursuant to 28 U.S.C. § 636(c).